



Purchasing and Contracting Policy Manual for the City of Harrisonburg, VA

Table of Contents

ARTICLE A – GENERAL PROVISIONS

4-3-1	PREAMBLE	1
4-3-2	PURPOSE	1
4-3-3	APPLICATION	1
4-3-4	EFFECTIVE DATE OF POLICY	1
4-3-5	SEVERABILITY	1
4-3-6	DEFINITIONS	2

ARTICLE B – OFFICE OF THE PURCHASING AGENT

4-3-7	ESTABLISHMENT AND APPOINTMENT	7
4-3-8	AUTHORITY	7
4-3-9	DUTIES	7
4-3-10	OPERATIONAL PROCEDURES	7
4-3-11	DELEGATION	7
4-3-12	UNAUTHORIZED PURCHASES	8

ARTICLE C- COOPERATIVE PROCUREMENT

4-3-13	CONDITIONS FOR USE	8
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ARTICLE D- CONTRACT FORMATION AND METHODS OF SOURCE SELECTION

4-3-14	COMPETITIVE SEALED BIDDING	8
4-3-15	PRE-QUALIFICATION OF BIDDERS	10
4-3-16	NOTICE OF INVITATION TO BID	10
4-3-17	USE OF BRAND NAMES	11
4-3-18	COMMENTS ON SPECIFICATIONS	11
4-3-19	BID BONDS ON CONSTRUCTION CONTRACTS	11
4-3-20	BONDS FOR OTHER THAN CONSTRUCTION CONTRACTS	12
4-3-21	REJECTION OF BIDS	12
4-3-22	BID OPENINGS	12
4-3-23	WITHDRAWAL OF BID DUE TO ERROR	12
4-3-24	COMPETITIVE SEALED BIDDING	14
4-3-25	BID AWARD	14
4-3-26	TIE BIDS	14

4-3-27	MULTI-STEP SEALED BIDDING	14
4-3-28	CONTRACT PRICING ARRANGEMENT	15
4-3-29	MULTI-TERM CONTRACTS	15
4-3-30	CONTRACT MODIFICATION	15
4-3-31	RETAINAGE CONSTRUCTION CONTRACTS	15

ARTICLE E – BONDING REQUIREMENTS

4-3-32	PERFORMANCE AND PAYMENT BONDS	16
4-3-33	ACTION ON PERFORMANCE BOND	17
4-3-34	ACTION ON PAYMENT BONDS	17
4-3-35	ALTERNATIVE FORMS OF SECURITY	18

ARTICLE F – COMPETITIVE NEGOTIATION

4-3-36	DEFINITION	18
4-3-37	CONDITIONS FOR USE	18
4-3-38	REQUEST FOR PROPOSALS	18
4-3-39	PUBLIC NOTICE	18
4-3-40	EVALUATION FACTORS AND AWARD	19
4-3-41	CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION	19

ARTICLE G – EXCEPTIONS TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT

4-3-42	SOLE SOURCE PROCUREMENT	20
4-3-43	EMERGENCY PURCHASES	20
4-3-44	SMALL PURCHASES	20
4-3-45	EXCEPTIONS TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT	21
4-3-46	DISPOSAL OF SURPLUS PROPERTY	22

ARTICLE H – DEBARMENT

4-3-47	AUTHORITY TO DEBAR OR SUSPEND	22
4-3-48	DECISION TO DEBAR OR SUSPEND	23
4-3-49	NOTICE OF DECISION	23
4-3-50	FINALITY OF DECISION	23

ARTICLE I – APPEALS AND REMEDIES

4-3-51	INELIGIBILITY OF BIDDER, OFFEROR OR CONTRACTOR	23
4-3-52	APPEAL OF DENIAL OF WITHDRAWAL OF BID	24
4-3-53	DETERMINATION OF NON-RESPONSIBILITY	24
4-3-54	PROTEST OF AWARD OR DECISION TO AWARD	24
4-3-55	EFFECT OF APPEAL UPON CONTRACT	25
4-3-56	STAY OF AWARD DURING PROTEST	25
4-3-57	CONTRACTUAL DISPUTES	25
4-3-58	LEGAL ACTIONS	26

ARTICLE J – DISCRIMINATION

4-3-59	DISCRIMINATION PROHIBITED	27
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ARTICLE K – ETHICS IN PUBLIC CONTRACTING

4-3-60	PURPOSE	27
4-3-61	PROSCRIBED PARTICIPATION BY PUBLIC EMPLOYEES IN PROCUREMENT TRANSACTIONS	27
4-3-62	SOLICITATION OR ACCEPTANCE OF GIFTS	28
4-3-63	DISCLOSURE OF SUBSEQUENT EMPLOYMENT	28
4-3-64	GIFTS BY BIDDERS, OFFICERS, CONTRACTORS OR SUBCONTRACTORS	28
4-3-65	KICKBACKS	28
4-3-66	PURCHASE OF BUILDING MATERIALS, ETC FROM ARCHITECT OR ENGINEER PROHIBITED	29
4-3-67	PENALTY FOR VIOLATION	29

ARTICLE L – MISCELLANEOUS

4-3-68	BIDDING REQUIREMENTS	29
4-3-69	PETTY CASH PURCHASES	30
4-3-70	DEPARTMENTAL PICK-UP ORDERS (DPO)	30
4-3-71	PURCHASE ORDERS (PO)	30
Memo #1	CITY CREDIT CARD REGULATIONS and PROCEDURES	31
Memo #2	CAPITALIZATIONAL THRESHOLDS	32

**CITY OF HARRISONBURG
PURCHASING AND CONTRACTING POLICY**

**ARTICLE A
GENERAL PROVISIONS**

4-3-1 Preamble

The City of Harrisonburg's purchasing and contracting policy shall be as follows:

4-3-2 Purpose

The purpose of this policy is to increase public confidence in purchasing by this City, to encourage competition in public purchasing among vendors or contractors, to administer fairly and equitably purchasing policies among bidders and to obtain high quality goods and services at the lowest possible price.

4-3-3 Application

(a) This policy applies to contracts for the procurement of goods, services, insurance and construction entered into by this City involving every expenditure for public purchasing irrespective of its source.

(b) When the procurement involves the expenditure of Federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal law and regulation which are not reflected in this policy. Nothing in this policy shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest which are otherwise consistent with law.

4-3-4 Effective Date of Policy

This policy shall become effective July 1, 1994. The provisions of this policy shall not apply to those contracts entered into prior to July 1, 1994, which shall continue to be governed by the procurement policies and regulations of the City in effect at the time those contracts were executed.

4-3-5 Severability

If any provision of this policy or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this policy which can be given effect without the invalid provision or application, and to this end the provisions of this policy are declared to be severable.

4-3-6 DEFINITIONS:

- (1) Blind trusts. An independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust.
- (2) Brand name specification. A specification limited to one or more items by manufacturers' names or catalogue numbers.
- (3) Brand name or equal specification. A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet City requirements and which provides for the submission of equivalent products.
- (4) Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
- (5) Change order (unilateral). A written order signed and unilaterally issued by the purchasing agent directing the contractor to make changes which the "changes" clause of the contract authorizes the purchasing agent to order without the consent of the contractor.
- (6) City. The City of Harrisonburg, Virginia, as well as any department, agency, commission, bureau or other unit thereof.
- (7) City Attorney. The attorney selected by the City to have the management, charge and control of all legal business of the City. With regard to matters concerning The Harrisonburg Electric Commission, the attorney employed by that Commission shall be considered the City Attorney.
- (8) City Council. The City Council of the City of Harrisonburg, Virginia.
- (9) City Manager. The Chief Administrative Officer of the City of Harrisonburg.
- (10) City Purchasing Agent. The City's purchasing agent shall be designated by the City Manager and report to the Director of Finance. With specific regard to purchases by or contracts with The Harrisonburg Electric Commission, only the general manager thereof or other individuals designated by him shall be deemed the City Purchasing Agent.
- (11) Capital Item. Capital items or commodities are tangible fixed assets with a useful life greater than one 1 year and values as illustrated in memorandum #2.
Effective 7-01-02.

- (12) Confidential Information. Any information which is available to an employee only because of the employee's status as an employee of this City and is not a matter of public knowledge or available to the public on request.
- (13) Construction. Building, altering, repairing, improving or demolishing any structure, building or highway, any and draining, dredging, excavation, grading or similar work upon real property.
- (14) Construction management contracté. A contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.
- (15) Contract. All types of city agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.
- (16) Contract modification. Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties to the contract.
- (17) Contractor. Any person having a contract with the City or an agency thereof.
- (18) Cost analysis. The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- (19) Cost data. Factual information concerning the cost of labor, material, overhead, and other costs elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.
- (20) Cost-reimbursement contract. A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this policy, and a fee or profit, if any.
- (21) Direct or indirect participation. Involvement in any procurement transaction through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- (22) Disadvantaged business. A small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been

deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

- (23) Employee. An individual drawing a salary or wages from the City whether elected or not; any noncompensated individual performing personal services for the City or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of this City and noncompensated individual serving as an elected official of the City.
- (24) Freight. The definition of freight is any charges to the City which may include a Common Carrier Package Delivery, US Postal Service, taxes which the City may not be exempt from, Insurance on goods, Set-up charges, handling charges or any other miscellaneous charges a vendor adds to the delivered cost of a commodity or service.
- (25) Fixed Assets. Capital items or commodities are tangible fixed assets with a unit cost exceeding \$5,000 and a useful life greater than 1 year. Effective 7-01-00.
- (26) General Manager. The individual employed by the Harrisonburg Electric Commission as its chief executive officer.
- (27) Goods. All material, equipment, supplies, printing and automated data processing hardware and software.
- (28) Governing body. The City Council.
- (29) Immediate family. A spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.
- (30) Informality. A minor defect or variation of a bid or proposal from the exact requirement of the invitation to bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.
- (31) Insurance. A contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.
- (32) Invitation for bids. All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids. No confidential or proprietary data shall be solicited in any Invitation for Bids.
- (33) Nominal value. A sum which is no more than one thousand dollars (\$1,000).

- (34) Nonprofessional services. Any services not specifically defined hereafter as professional services.
- (35) Official responsibility. Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect procurement transaction, or any claim resulting therefrom.
- (36) Pecuniary interest arising from the procurement. A material financial interest as defined in the Virginia Conflict of Interests Act (2.1-348 et seq.).
- (37) Person. Any business, individual, union, committee, club, other organization, or group of individuals.
- (38) Price analysis. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed
- (39) Pricing data. Factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.
- (40) Procurement transaction. All functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (41) Professional services. Work performed by an independent contractor within the scope of the practice of accounting, architecture, land surveying, landscape architecture, law medicine, optometry or professional engineering.
- (42) Public body. Any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this policy.
- (43) Public employee. Any person employed by a public body, including elected officials or appointed members of governing bodies.
- (44) Qualified products list. An approved list of goods, services, or construction items described by model or catalogue number, which prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

- (45) Request for proposals. All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (46) Responsible bidder or offeror. A person who has the capability, in all respects, to perform fully the contract, assures good faith performance, and who has been pre-qualified, if required.
- (47) Responsive bidder. A person who has submitted a bid which conforms in all material respects to the Invitation to Bid.
- (48) Services. Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.
- (49) Sheltered workshop. A work-oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.
- (50) Small business. A United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.
- (51) Specification. Any description of the physical or functional characteristics, or of the nature of a good, service or construction item. It may include a description of any requirement for inspecting, testing, or preparing a good, service or construction item for delivery.
- (52) Low bid. When making a determination of the lowest responsive and responsible bidder, setup charges, freight, insurance, taxes, and/or handling charges of any kind shall be included as part of the commodities and/or services unit cost.

Example: Bid for widgets - Cost + freight = Unit Cost

Company A (New York)	\$1.00	.05	\$1.05
Company B (Richmond)	1.04	free	1.04
Company C (California)	.85	.22	1.07

In the example above Company B is awarded the bid based on the lowest cost including freight. Company C would be rotated out of the City's next bid for widgets, unless there are no other Vendors on the Bid List waiting to bid on widgets.

ARTICLE B
OFFICE OF THE PURCHASING AGENT

4-3-7 Establishment, and Appointment

(a) There is hereby created a purchasing system to operate under the direction and supervision of the City Manager or with regard to purchases by the Harrisonburg Electric Commission under the direction and supervision of its general manager.

(b) The City Manager shall appoint the City's purchasing agent who will report to the City's Director of Finance. The General Manager of HEC shall be the purchasing agent for the Harrisonburg Electric Commission.

4-3-8 Authority

The purchasing agent shall have authority to procure goods, services, insurance and construction in accordance with this chapter as well as to manage and dispose of supplies.

4-3-9 Duties

In accordance with this chapter, the purchasing agent shall: (1) Purchase or supervise the purchasing of all goods, services, insurance and construction needed by this City; (2) Exercise direct supervision over the City's central stores and general supervision of all other inventories of goods belonging to the City; (3) Sell, trade or otherwise dispose of surplus goods belonging to the City; (4) Establish and maintain programs for specifications, development, contract administration, and inspection and acceptance, in cooperation with the public agencies using the goods, services, and construction.

4-3-10 Operational Procedures

Consistent with this chapter, the purchasing agent may adopt operational procedures relating to the execution of the duties assigned.

4-3-11 Delegation

The purchasing agent may delegate authority to purchase certain supplies, services or construction items to other employees of the City if such delegation is deemed necessary by the purchasing agent for the effective procurement of those items.

4-3-12 Unauthorized purchases

Except as herein provided, no official, elected or appointed, or any employee shall purchase or contract for any goods, services, insurance or construction within the preview of this chapter. Any purchase order or contract made contrary to the provisions hereof is not approved and the City shall not be bound thereby.

ARTICLE C COOPERATIVE PROCUREMENT

4-3-13 Conditions for use

The City may participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more other public bodies for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Any public body which enters into a cooperative procurement agreement with the City shall comply with the policies and procedures adopted by this policy. Any public body may participate in, sponsor, conduct, or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, or the U.S. General Services Administration, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Any public body that enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to subdivisions 9 and 10 of § 2.2-4343 Code of VA, shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

ARTICLE D CONTRACT FORMATION AND METHODS OF SOURCE SELECTION

4-3-14 Competitive Sealed Bidding

(a) Conditions for Use

All public contracts with non-governmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

(b) Public Access to Procurement Information

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act as contained in Title 2.1 of the Code of Virginia of 1950, as amended. Cost estimates relating to a proposed transaction prepared by or for the City shall not be open to public inspection. Any bidder or offeror, upon request, shall be afforded the opportunity to inspect bid and proposal records within a reasonable time after the opening of all bids but prior to award, except in the event that the City decides not to accept any of the bids and to reopen the contract. Otherwise, bid and proposal records shall be open to public inspection only after award of the contract. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, offeror or contractor must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

(c) Employment Discrimination by Contractor Prohibited

Every contract of over \$10,000 shall include the provisions in one (1) and two (2) below:

(1) During the performance of this contract, the contractor agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

(c) Notices, advertisement and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

4-3-15 Pre-qualification of Bidders

(a) The purchasing agent is authorized to pre-qualify bidders prior to any solicitation of bids, whether for goods, services, insurance or construction, by requiring prospective bidders to submit such information as the purchase agent shall deem appropriate, including samples, financial reports, and references; provided, however, that opportunity to pre-qualify shall be given to any prospective bidder who has not been suspended or debarred under this policy.

(b) The purchasing agent may refuse to pre-qualify any prospective contractor, provided that written reasons for refusing to pre-qualify are made a part of the record in each case. The decision of the purchasing agent shall be final.

(c) In considering any request for Pre-qualification, the purchasing agent shall determine whether there is reason to believe that the bidder possesses the management, financial soundness, and history of performance which indicate apparent ability to successfully complete the plans and specifications of the invitations for bid. The purchasing agent may employ standard forms designed to elicit necessary information, or may design other forms for that purpose.

(d) Pre-qualification of a bidder shall not constitute a conclusive determination that the bidder is responsible, and such bidder may be rejected as non-responsible on the basis of subsequently discovered information.

(e) Failure of a bidder to pre-qualify with respect to a given procurement shall not bar the bidder from seeking Pre-qualification as to future procurement, or from bidding on procurement which does not require Pre-qualification.

4-3-16 Notice of Invitation to Bid

(a) Notice inviting bids shall be posted upon the bulletin board designated for public notices and located in the City Municipal Building of Harrisonburg, Virginia, or with regard to the Harrisonburg Electric Commission, such notice shall be posted upon the bulletin board designated for public notices at the Commission offices. The notice inviting bids must be posted at least (10) days prior to the date set for receipt of bids or the notice may be by publication in a newspaper of general circulation in the City at least ten (10) days proceeding the last day set for the receipt bids or both. In addition, bids may be solicited directly from potential contractors.

(b) The notice of invitation to bid required herein shall include a general description of the articles to be purchased or sold, shall state where bid documents and specifications may be secured, and the time and place for opening bids.

(c) The purchasing agent, or his/her delegate, shall solicit bids from a minimum of three (3) and a maximum of ten (10) responsible and responsive prospective suppliers who have requested to be on the Bidders List.

Bidders List definition

The Bid list shall be rotated based upon the last winning bidder and the second place bidder from the last bid of those commodities or services and up to eight (8) new bidders selected from the Purchasing Agent's Bid List in the order (date) that they were added to the Bidders List (FIFO basis).

4-3-17 Use of Brand Names

Unless otherwise provided in the invitation to bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer's name; it conveys the general style, type, character, and quality of the article desired, and any article which the public body in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

4-3-18 Comments on Specifications

For complex equipment, supplies or repair, pre-bid conferences with prospective bidders are desirable after draft specifications have been prepared. Such conferences help to detect unclear provisions and tend to widen competition by removing unnecessarily restrictive language. Conferences on purchasing bids will be called by the purchasing agent and attended by a department representative and, if necessary, the City Attorney or other attorney retained by the City or its agencies.

4-3-19 Bids Bonds on Construction Contracts

(a) Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid. Nothing in this section shall preclude the Purchasing Agent from requiring performance bonds for construction contracts for less than \$100,000.

(b) No forfeit under a bid bond shall exceed the lesser of (I) the difference between the bids for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

4-3-20 Bonds for other than Construction Contracts

(a) At the discretion of the purchasing agent, bidders may be required to submit a bid bond, or a certified check, in an amount to be determined by the purchasing agent and specified in the invitation to bid, which shall be forfeited to the City as liquidated damages upon the bidder's failure to execute a contract awarded to him or upon the bidder's failure to furnish any required performance or payment bonds in connection with a contract awarded to him.

(b) The purchasing agent may require successful bidders to furnish a performance bond and/or a payment bond at the expense of the successful bidder, in amounts to be determined by the purchasing agent and specified in the invitation to bid, to ensure the satisfactory completion of the work for which a contract or purchase order is awarded.

4-3-21 Rejection of Bids

(a) An invitation to bid, a Request for Proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file.

(b) A governing body may waive informalities in bids.

4-3-22 Bid Openings

Sealed bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as the purchasing agent deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection.

4-3-23 Withdrawal of Bid Due to Error

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgement mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or

unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

(b) The procedure for bid withdrawal must be stated in the advertisement for bids. The procedure for withdrawal of bids is:

(1) The bidder shall submit to the purchasing agent his original work papers, documents and materials used in the preparation of the bid within one (1) day after the date fixed for submission of bids. The work papers shall be delivered by bidder in person or by registered mail at or prior to the time fixed for the opening of bids. The bids shall be opened one day following the time fixed by the purchasing agent for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the purchasing agent until the two-hour period has elapsed. Such mistakes shall be proved only from the original work papers, documents and materials delivered as required herein.

(2) Procedures for the withdrawal of bids for other than construction contracts may be established by the purchasing agent.

(3) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or to another bidder in which the ownership of the withdrawing bidder is more than five percent (5%).

(4) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(5) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract of other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(6) If the purchasing agent denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing the reasons for its decision.

4-3-24 Competitive Sealed Bidding

Evaluation of bids shall be based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

4-3-25 Bid Award

(a) Bids shall be awarded to the lowest responsive and responsible bidder. When the terms and conditions of multiple bids are so provided in the invitation to bid, awards may be made to more than one bidder.

(b) Unless canceled or rejected, a responsible bid from the lowest responsible bidder shall be accepted as submitted except that if the bid from the lowest responsible bidder exceeds available funds, the purchasing agent may negotiate with the apparent low bidder to obtain a contract price within available funds.

(c) When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the other papers relating to the transaction.

4-3-26 Tie Bids

(a) In the case of a tie bid, preference shall be given to goods, services and construction to be provided by local bidders.

(b) If two or more local bidders submit tie bids, the tie bidders shall be invited to resubmit written bids below the original bid, and award shall be made to the bidder with the lowest bid price.

(c) In the event that the tie bid cannot be resolved by the foregoing provisions, the tie shall be decided by lot.

4-3-27 Multi-Step Sealed Bidding

When it is considered impractical to initially prepare a purchase description to support an award based on price, an Invitation for Bids may be issued requesting the submission of un-priced offers to bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

4-3-28 Contract Pricing Arrangement

(a) Except as prohibited herein, public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited. Except in case of emergency affecting the public health, safety or welfare, no contract shall be awarded on the basis of cost-plus a percentage of cost until the City has received competitive sealed bids regarding the cost plus the percentage of cost proposed.

(b) Subject to the limitation of this section, any type of contract which is appropriate to the procurement and which will promote the best interest of the City may be used. Whenever a cost reimbursement or cost plus a percentage of cost contract is to be used, a determination shall be made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supply, service or construction item required except under such a contract.

4-3-29 Multi-term Contracts

(a) Unless otherwise provided by law, a contract for goods, services or insurance may be entered into for any period of time deemed to be in the best interests of the City provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at a time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.

(b) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

4-3-30 Contract Modification

Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the City, including profit or fee, shall be adjusted to exclude any significant sums by which the City finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the City and the contractor.

4-3-31 Retainage on construction contracts

(a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall

be paid at least ninety-five percent (95%) of the earned sum when payment is due, with not more than five percent (5%) being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment.

- (b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.

ARTICLE E BONDING REQUIREMENTS

4-3-32 Performance and Payment Bonds

Upon the award of any public construction contract exceeding \$100,000 awarded to any prime contractor, such contractor shall furnish to the City the following bonds:

- (1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.
- (2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.
- (3) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.
- (4) Bonds shall be made payable to the City.
- (5) Each of the bonds shall be filed with the City or a designated office or official thereof.
- (6) Nothing in this section shall preclude the purchasing agent from requiring payment or performance bonds for construction contracts below \$100,000.
- (7) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for

performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

4-3-33 Action on Performance Bond

No action against the surety on a performance bond shall be brought unless within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty, if the action be for such.

4-3-34 Actions on Payment Bonds

(a) Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished materials in accordance with the contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety day after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

(b) Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond, but who has no contractual relationship, express or implied, with such contractor, may bring an action on the contractor's payment bond only if he has given written notice to such contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond but who has no contractual relationship, express or implied, with such contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performance or materials furnished, shall not be subject to the time limitations stated in this subsection.

(c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

4-3-35 Alternative Forms of Security

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

(b) If approved by the City Attorney, a bidder may furnish a personal bond, property bond, or bank or saving and loan association's letter of credit on certain designated funds in the face amount required for the bid bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the City equivalent to the corporate surety's bond.

ARTICLE F COMPETITIVE NEGOTIATION

4-3-36 Definition

Competitive negotiation is a method of source selection which involves individual discussions between the City and the offeror on the basis of responses to the City's Request for Proposals. The source selection method of competitive negotiation incorporates Sections 4-3-15(b), (c), 4-3-16, 18, 19, 22, 28, and 29 of this chapter, in addition to the provisions outlined in Article F of this chapter.

4-3-37 Conditions for Use

Upon a determination in writing that competitive sealed bidding is either not practicable or not advantageous to the public, goods, services, insurance or construction may be procured by competitive negotiation. The writing shall document the basis for this determination.

4-3-38 Request for Proposals

Request for proposals shall be in writing and indicate in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

4-3-39 Public Notice

At least ten (10) days prior to the date set for receipt of proposals, public notice shall be given by posting in a public area normally used for posting of public notices or by publication in a newspaper of general circulation in the area in which the contract is to be performed or both. In addition, proposals may be solicited directly from potential contractors.

4-3-40 Evaluation Factors and Award

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposals, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the purchasing agent shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. Should the purchasing agent determine in writing and in his or her sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

4-3-41 Contracting for Professional Services by Competitive Negotiation

(a) Professional services may be procured by competitive negotiation. The process incorporates Sections (b) 4-3-15, (c) 4-3-16, 18, 19, 22, 23, and 29 in addition to 4-3-37 and 38. An RFP may be used if sealed bidding is either not practical or not advantageous.

(c) The purchasing agent shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project as well as alternative concepts. These discussions may encompass non-binding estimates of total project costs, including where appropriate, design, construction and life cycle costs. Methods to be utilized in arriving at price for services may also be discussed. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined herein, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the City can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the purchasing agent determine in writing and in his sole

discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

ARTICLE G

EXCEPTIONS TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT

4-3-42 Sole Source Procurement

Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination.

4-3-43 Emergency Purchases

(a) In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(b) An emergency shall be deemed to exist when a breakdown in machinery or equipment and/or a threatened termination of essential services or a dangerous condition develops, or when circumstances arise causing curtailment or diminution of an essential service or where materials or services are needed to prevent loss of life or property.

4-3-44 Small Purchases

The purchasing agent may, in his discretion, make any contracts for purchases of less than Thirty Thousand Dollars (\$30,000) without obtaining bids or quotations; provided, that such purchases are made on the basis of one of the following requirements:

(a) That the cost of the items purchased be the lowest of the supplier's current price lists in the office of the purchasing agent. The purchasing agent shall attempt to obtain at least two current price lists from suppliers prior to making purchases under this provision. A price list obtained within twelve months of the purchase shall be considered current.

(b) That it is known by the purchasing agent that all competitors have substantially the same price for the items to be purchased.

(c) That the purchase of less than \$30,000 is a reorder of commodities purchased on a previous bid or part thereof obtained within twelve months prior to the proposed purchase.

(d) That the contract or purchase is of nominal value as that term is defined herein.

(e) That if a contract is to be awarded for professional services to a contractor who has performed professional services for the City prior to July 1, 1994 and in the discretion of the purchasing agent the best interest of the City will be served by the prior professional experience and expertise of such a contractor, a contract may be awarded for professional services to such a contractor without competitive negotiation or obtaining bids or quotations.

(f) That in the opinion of the purchasing agent it is not practicable to obtain bids regarding the contracts or purchases.

(g) Minority vendors/contractors as so registered with the State of Virginia.

All other purchases shall be made in accordance with the provisions of this policy.

4-3-45 Exceptions to requirements for competitive procurement

The following are exempted from competitive procurement requirements:

- (1) Purchases from the Commonwealth of Virginia, or any political subdivision thereof.
- (2) Legal Services, expert witnesses, and other services associated with actual or potential litigation.
- (3) Federal surplus property.
- (4) Purchases under contracts awarded by the Commonwealth of Virginia Department of Purchases and Supply.
- (5) Purchases for special police work when the Police Chief certifies to the Purchasing Agent that the items are needed for undercover police operations.
- (6) Purchases from any qualified supplier/vendor who matches or lowers the state contract pricing and meets or exceeds all of the prerequisite specifications for that particular commodity or service. If other than the state contract vendor, the invoicing for product or service must reference the state contract (#) number that it is matching or beating. This exception of an alternative state contract supplier must be approved by the Purchasing Agent prior to purchase, even if the dollar amount is less than \$5,000.

- (7) Used equipment with cost less than \$5,000 and not under contract. Used equipment exceeding \$5,000 needs prior approval of Purchasing Agent.

4-3-46 Disposal of Surplus Property

The City of Harrisonburg surplus property, which is no longer needed, may be disposed of in accordance with the methods indicated below or in a means, which is in the best interest of the City. This includes the following options: surplus property may be transferred to other City departments, public auctions which include on-line auctioning, traded in on other similar equipment, sales by sealed bid, negotiated sale, set price, and donations to a non-profit organization with approval of Purchasing Agent.

Employees will be allowed to purchase surplus under the same conditions as the general public. Under no circumstances are employees to take City property without proper documentation.

Property which is unusable and determined to have no commercial value, or that the cost of sale would exceed the expected returns, may be destroyed. The department head and Purchasing Agent will make this decision.

Federally funded acquisitions often carry stipulations regarding disposal. These stipulations are noted in the original grant agreement and should be reviewed prior to disposing of equipment that was originally purchased with federal funds.

ARTICLE H - DEBARMENT

4-3-47 Authority to Debar or Suspend

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the governing body or purchasing agent after consulting with the City Attorney is authorized to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. After consultation with the City Attorney, the governing body or purchasing agent is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall not be for a period exceeding three months. The causes for debarment include:

- (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
- (2) Conviction under state and federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense

indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a city contractor.

(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) Violation of contract provisions, as set forth below, of a character which is regarded by the governing body or purchasing agent to be so serious as to justify debarment action:

(a) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

(5) Any other cause the governing body or purchasing agent determines to be as serious and compelling as to affect responsibility as a city contractor including debarment by another governmental entity for any cause in this policy; and for violation of the ethical standards set forth in this policy.

4-3-48 Decision to Debar or Suspend

The governing body or purchasing agent shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of his rights concerning judicial or administrative review.

4-3-49 Notice of Decision

A copy of the decision required by 4-3-48 shall be mailed or otherwise furnished immediately to the debarred or suspended person.

4-3-50 Finality of Decision

A decision under 4-3-48 shall be final and conclusive, unless the debarred or suspended person within ten (10) days after receipt of the decision commences an action in court in accordance with applicable law.

ARTICLE I – APPEALS AND REMEDIES

4-3-51 Ineligibility of Bidder, Offeror or Contractor

(a) Any bidder, offeror, or contractor refused permission to participate or disqualified from participating in, public contracts shall be notified in writing. Such notice shall state the reasons for the action taken. This decision shall be final unless the bidder, offeror, or contractor appeals within thirty days by instituting legal action as provided in 4-3-58 of this policy.

(b) If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the applicable laws or regulations, the sole relief shall be restoration of eligibility.

4-3-52 Appeal of Denial of Withdrawal of Bid

(a) A decision denying withdrawal of bid under the provisions of 4-3-23 shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in 4-3-58 of this policy.

(b) If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of 4-3-23 prior to appealing, shall deliver to the purchasing agent a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next lowest bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

(c) If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

4-3-53 Determination of Non-responsibility

(a) Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular contract shall be notified in writing. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days by instituting legal action as provided in 4-3-58 of this policy.

(b) If, upon appeal, it is determined that the decision of the purchasing agent was arbitrary or capricious, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question. If it is determined that the decision of the purchasing agent was arbitrary or capricious and the contract has been awarded, the relief shall be as set forth in 4-3-54.

(c) A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under 4-3-54 of this policy.

(d) Nothing contained in this section shall be construed to require the City when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

4-3-54 Protest of Award or Decision to Award

(a) Any bidder or offeror may protest the award or decision to award a contract by submitting such protest in writing to the governing body or purchasing agent no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The governing body or purchasing agent shall issue a decision in writing within ten (10) days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of the written decision by instituting legal action as provided in 4-3-58 of this policy.

(b) If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The purchasing agent shall cancel the proposed award or revise it to comply with the law. If, after award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the governing body or purchasing agent may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

(c) Where the governing body or purchasing agent determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of the Ethics in Public Contracting Article, the governing body or purchasing agent may enjoin the award of the contract to a particular bidder.

4-3-55 Effect of Appeal upon Contract

Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this chapter shall not be affected by the fact that a protest or appeal has been filed.

4-3-56 Stay of Award during Protest

An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

4-3-57 Contractual Disputes

(a) Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty (60) days after final payment: however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based, nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

(b) A procedure for consideration of contractual claims shall be included in each contract. Such procedure, which may be incorporated into the contract by reference, shall establish a time limit for a final decision in writing by the governing body or purchasing agent.

(c) A contractor may not invoke legal action as provided in 4-3-58 prior to receipt of the decision on the claim, unless the governing body fails to render such decision within the time specified in the contract.

(d) The decision of the governing body or purchasing agent shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the governing body or purchasing agent by instituting legal action as provided in 4-3-58 of this policy.

4-3-58 Legal Actions

(a) A bidder or offeror, actual or prospective, who is refused permission to participate or is disqualified from participating in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was arbitrary or capricious.

(b) A bidder denied withdrawal of a bid under 4-3-51 of this policy may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the City was clearly erroneous.

(c) A bidder, offeror or contractor may bring an action in the appropriate circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not an honest exercise of discretion, but rather is arbitrary or capricious or not in accordance with the applicable law, regulations or the terms and conditions of the Invitation to Bid or Request for Proposal.

(d) If injunctive relief is granted, the court, upon request of the City, shall require the posting of reasonable security to protect the City.

(e) A contractor may bring an action involving a contract dispute with the City in the appropriate circuit Court.

(f) Nothing herein shall be construed to prevent the City from instituting legal action against a contractor.

ARTICLE J DISCRIMINATION

4-3-59 Discrimination Prohibited

In the solicitation or awarding of contracts, the City shall not discriminate because of race, religion, color, sex or national origin of the bidder or offeror.

ARTICLE K ETHICS IN PUBLIC CONTRACTING

4-3-60 Purpose

The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interests Act (2.1-348 et seq.) the Virginia Governmental Frauds Act (18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

4-3-61 Proscribed Participation by Public Employees in Procurement Transactions

(This section also incorporates chapter 40.1 of the Code of Virginia)

No public employee shall bid or be a party to any contract on behalf of the City or any of its Governing Bodies when the employee knows that:

- (1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or
- (2) The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or
- (3) The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement

transaction; or

- (4) The employee, the employee's partner or any member of the employee's immediate family is negotiating, or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

4-3-62 Solicitation or Acceptance of Gifts

No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The City may recover the value of anything conveyed in violation of this section.

4-3-63 Disclosure of Subsequent Employment

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the City unless the employee, or former employee, provides written notification to the governing body or purchasing agent or both prior to commencement of employment by that bidder, offeror or contractor.

4-3-64 Gifts by Bidders, Officers, Contractors or Subcontractors

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

4-3-65 Kickbacks

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or offer, any payment, loan, subscription, advance, deposit of money, services or anything of value, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to complete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the City and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

4-3-66 Purchase of Building Materials, etc., from Architect or Engineer Prohibited

Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the City shall be sold by or purchased from any person employed as an independent contractor by the City to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association, or corporation in which such architect or engineer has a pecuniary interest.

4-3-67 Penalty for Violation

Willful violation of any provision of this article shall constitute a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

ARTICLE L MISCELLANEOUS

4-3-68 Bidding Requirements

Unless otherwise addressed in this manual; the following is a summary of the bidding requirements.

Type of purchases

Bidding Requirements

Small Purchases-Goods/Non Professional Services

00 - 5,000

No bids required, but encouraged.

5,001 - 15,000

Three (3) Telephone bids (must be documented).

15,001 - 30,000

Three (3) Written bids (must be documented).

Over 30,000

Sealed bids and posted in the Municipal building and/or advertised in the local newspaper.

Professional Services

Over 30,000

Sealed bids and posted in the municipal building and/or advertised in the local newspaper.

Professional Services under \$30,000 do not require competitive negotiation for single contracts or term contracts if aggregate or sum of all phases is not expected to exceed \$30,000. Bidding information must be documented and accompany the DPO or PO when payment is requested.

4-3-69 Petty Cash Purchases

Small dollar purchases, \$20 or less, may be made with petty cash funds. In fact, because of the cost of preparing checks, small dollar purchases are encouraged to be made by using petty cash. Guidelines for petty cash are contained in a letter from the City Manager dated December 18, 1992. This letter is attached in the appendix to this manual, and is incorporated as a part of this manual.

In addition, departments are to use the services of the City's Central Stores for those items stocked by Central Stores. Effective 7-01-96.

4-3-70 Departmental Pick-up Orders (DPO)

The Departmental Pick-up Order is to be used for all purchases of \$5,000 or less. See copy attached in the appendix. This form may also be used as a cover sheet for vendor's original invoices and may contain more than one invoice.

- (1) The DPO should be completed as thoroughly as possible and approved and signed by the Department Head.
- (2) The pre-numbered DPO may include the departmental prefix as a part of the DPO number.
- (3) Although DPO's are to be used for purchases of less than \$5,000, numerous purchases can be listed on a DPO with its total exceeding \$5,000. Several invoices with the same date that total over \$5,000 will require a PO.
- (4) DPO's may be used for a cover sheet when making utility payments or making a partial payment on a purchase order.

4-3-71 Purchase Orders (PO)

A purchase order, PO, must be used for all purchases exceeding \$5,000. See appendix for an example of a PO.

- (1) The PO must be approved by the City's Purchasing Agent before it is sent to a vendor and before the purchase.
- (2) The City assumes no responsibility for purchases exceeding \$5,000 which are not covered by a purchase order.
- (3) Vendors should be requested to indicate the purchase order or contract number when submitting an invoice for payment.
- (4) Shipments F.O.B. shipping point must be prepaid and included on the invoice.

- (5) Original vendor's bill must accompany PO when payment is requested.

Memorandum #1 City Credit Card Regulations and Procedures

Effective Date 3-25-97

Currently, the City's procedures for making small purchases is a sometimes lengthy and cumbersome process that involves an employee purchasing an item from a vendor that extends the City credit or the employee paying cash for the item to be reimbursed at a later time (if the employee pays for the item, sales tax must be paid). Both types of purchases involve the time involved in preparing a DPO, inputting payment data into the computer system and then forwarding the DPO to Purchasing and Finance for approvals and payment to the vendor or employee. Therefore, the City has implemented a program, which provides participating departments or divisions with credit cards. These cards can be used for many types of small purchases at local businesses, in making travel and conference arrangements, travel expenses and for ordering a variety of items. Merchants and vendors are paid by VISA and no longer have to send invoices to the City for payment.

The City of Harrisonburg's credit card purchasing program has several goals and objectives, namely to:

- Provide a small purchases procedure that simplifies the process for the user by reducing paperwork and signature approvals;
- Create efficiencies in the accounts payable process;
- Reduce the volume of work in user departments, purchasing and finance; and
- Embody the City's goal of empowering employees and simplifying administrative processes.

OPERATION:

Each participating division or department will be issued five (5) single account credit cards. Initially, all cards will be established with an \$8,000 credit limit with a \$1,000 limit for a single transaction. In addition to the department or division name the card will be imprinted with "\$1,000 LIMIT" and "TAX EXEMPT". The card can be used for many types of transactions, of up to \$1,000 each for subscriptions, travel reservations, conference registrations, books, lodging and meals when traveling on City business, departmental supplies, food supplies, emergency items, etc. The credit cards should not be used at vendors that offer the city prompt payment discounts on their monthly billing statements.

One employee in each division or department is designated to be responsible for the cards and for reconciliation and processing of the monthly bill for payment. Each division or department will have a separate account and will be billed by VISA. The responsible employee will reconcile the credit card statement, attach receipts and /or documentation for each item on the statement, complete a City DPO form and supply the amount to be charged to each account code. The completed DPO will then be sent to Purchasing and Finance for review and payment.

Memorandum #2
Effective Date 7-1-02

City of Harrisonburg, VA
Capitalization Thresholds

<u>Type of Asset</u>	<u>Capitalization Threshold</u>
Land	All
Land Improvements	50,000
Buildings	All
Building Improvements	25,000
Improvements other than buildings	25,000
Machinery and Equipment	5,000
Infrastructure:	
Water/Sewer Lines	50,000
Streets (includes sidewalks, curbs/gutters, Drainage system and other related items)	100,000
Bridges	100,000
Traffic Lights	25,000

Note: All thresholds are aggregate amounts.